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December 29, 2006

BY HAND AND ECF

The Honorable Nina Gershon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: **United States v. Shahawar Matin Siraj**
Criminal Docket No. 05-104 (S-1)(NG)

Dear Judge Gershon:

The Government respectfully submits this letter in connection with the defendant's sentencing, currently scheduled for January 8, 2007. For the reasons set forth below, the Court should sentence the defendant to a term of imprisonment within the range specified by the Sentencing Guidelines. Such a sentence will constitute just punishment, reflect the extraordinarily serious nature of the defendant's terrorist offense, and protect the public from further crimes by the defendant.

I. The Applicable Range under the Sentencing Guidelines Is 360 Months to Life

By statute, in sentencing a defendant, the Court "must consider the Guidelines," along with the other factors listed in 18 U.S.C. § 3553(a). United States v. Crosby, 297 F.3d 103, 113 (2d Cir. 2005). Generally, such consideration requires a determination of the applicable Guidelines range. Id. Even after the Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005), the Guidelines continue to play a critical role in sentencing. "The guidelines cannot be called just 'another factor' in the statutory list, 18 U.S.C. § 3553(a), because they are the only integration of the multiple factors and, with important exceptions, their calculations were based upon the actual sentences of many judges." United States v. Rattoballi, 452 F.3d 127, 133 (2d Cir. 2006) (omitting internal quotations).

In the instant case, as a result of the defendant's key role in a terrorist plot to bomb the New York City subway system, as well as the defendant's active obstruction of justice, the Guidelines offense level is 38, and the applicable criminal history category is VI. See Presentence Report ("PSR"), ¶¶ 46-66. The corresponding Guidelines range is a term of imprisonment of 360 months to life. Id. at ¶ 98. With two exceptions discussed below, the defendant has not challenged this Guidelines calculation.

a. The PSR Correctly Assesses an Enhancement for Obstruction of Justice

By letter to U.S. Probation Officer Mark Gjelaj, the defendant argued against an enhancement for obstruction of justice. However, as set forth in the PSR and the PSR Addendum, the obstruction of justice enhancement is clearly warranted.

In testifying at the suppression hearing and at trial, the defendant lied repeatedly under oath. Based on a submission from the government, the Probation Department identified sixteen specific examples of willfully false statements by the defendant during his testimony at the suppression hearing. PSR, ¶ 34. Included in this illustrative list were false statements that the defendant: (1) believed one of the federal prosecutors was his lawyer; (2) did not read the Miranda waiver form; (3) was forced to wear handcuffs during the entire interview. See id. In rejecting the defendant's motion to suppress, the Court refused to credit the defendant's testimony on numerous significant issues, including the three aforementioned false statements.[1] See Opinion & Order, 3/29/06. The defendant thus earned the obstruction of justice enhancement based solely on his perjurious testimony at the suppression hearing.

The defendant's testimony at trial was equally riddled with false statements under oath. The Probation Department identified nine illustrative examples of willfully false statements at trial. PSR ¶ 35. More broadly, the defendant's testimony material to his entrapment defense was false in virtually every respect. Indeed, as set forth in detail in the government's December 4, 2006 letter, during his trial testimony, the defendant not only attempted generally to mislead the jury regarding his character and his relationship with the confidential informant (the "CI"), but he advanced a series of specific false statements claiming a lack of prior interest or involvement in violent and terrorist activity. When the government then revealed its intention to call an undercover officer (the "UC") as a rebuttal witness, the defendant abruptly changed his testimony, effectively conceding its falsity. See Govt. Letter, 12/4/06, at 2-3. The purpose of the defendant's false testimony was entirely clear: to attempt to obstruct justice, mislead the jury, and avoid punishment for his terrorist activities. As a result, the defendant's trial testimony also warrants an enhancement for obstruction of justice.

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[1] A clear difference exists, of course, between refusing to credit testimony and finding willful obstruction of justice. However, the statements that the Court rejected were not statements that could result from a failure of recollection. For example, the defendant asserted clearly and firmly during the hearing that he believed one of the AUSA's was his attorney. See Opinion & Order, 3/29/06, at 4 & n.3. This false assertion is clearly not the product of mistake, but rather a willful effort to achieve the defendant's goal of suppressing evidence through false testimony.

After reviewing the defendant's testimony and the parties' submissions, the Probation Department adhered to its finding that the defendant committed perjury that warranted an obstruction of justice enhancement. The Court should adopt that recommendation.

b. The PSR Correctly Rejects a Reduction for Acceptance of Responsibility

The defendant has also claimed that he should receive a downward adjustment for acceptance of responsibility. As set forth in the government's letter of December 4, 2006, case law from other circuits holds that an acceptance of responsibility adjustment is never available to a defendant who asserts an entrapment defense. See Govt. Letter, 12/4/06, at 3 (citing cases on both sides of the issue). The Second Circuit has not resolved the issue. See United States v. Rosa, 17 F.3d 1531, 1552 (2d Cir. 1994). Even assuming that the Second Circuit would not erect such a categorical bar, the defendant in the instant case clearly does not deserve any adjustment for acceptance of responsibility.

First, as set forth above and in the PSR, the defendant obstructed justice by repeatedly testifying falsely under oath. Except in extraordinary cases, a defendant who obstructs justice cannot qualify for an adjustment for acceptance of responsibility. U.S.S.G. § 3E1.1 Note 4. Second, at trial, the defendant asserted that the crime was not his fault because he was brainwashed by the CI. Such an assertion constitutes the antithesis of acceptance of responsibility. Finally, since the trial, the defendant has continued to avoid accepting responsibility. During his interview with the Probation Department, the defendant continued to maintain adamantly that he is "not the type of person who would have hatched such a plan, referring to the instant offense." PSR, ¶ 44. Anyone who listened to the defendant's voluminous, unprompted, and chilling descriptions of his detailed and well-constructed plans for bombing the 34th Street subway station, the 42nd Street subway station, the 59th Street subway station, the Verrazano bridge, the Manhattan bridge, the Kocsiuszko bridge and an assortment of other targets in New York City, knows that this statement is patently false and demonstrates a continued failure to accept responsibility.

After reviewing the parties' submissions, the Probation Department adhered to its recommendation that the defendant did not deserve an adjustment for acceptance of responsibility. The Court should adopt that recommendation.

c. The PSR Correctly Assesses the Sentencing Range under the Guidelines

Because the defendant's objections lack merit, the Court should adopt the Guidelines calculation set forth in the PSR. The Guidelines range "should serve as 'a benchmark or a point of reference or departure'" in determining the sentence. United States v. Fernandez, 443 F.3d 19, 28 (2d Cir. 2006) (quoting United States v. Rubenstein, 403 F.3d 93, 98-99 (2d Cir. 2005)). For the reasons set forth below, a sentence within the Guidelines range will constitute just punishment for the defendant's extraordinarily serious criminal conduct.

II. Application of Factors under 18 U.S.C. § 3553

A. The Nature and Circumstances of the Offense Weigh in Favor of a Sentence within the Guidelines Range

As the evidence demonstrated at trial, had the defendant succeeded in his efforts to bomb the 34th Street Herald Square subway station, he would have caused massive harm -- personal and economic -- to the City of New York and its residents. Obviously, exploding a bomb in the third busiest subway station in New York City, which sits directly underneath office buildings containing Macy's and the Manhattan Mall, Trial Trans. at 1745, could potentially have injured and/or killed scores of people. In addition to the injuries and loss of life, such an attack would have caused severe harm to the New York City economy by incapacitating a critical subway station and shutting down numerous subway lines through midtown Manhattan, as well as suspending PATH train service. Id. at 1769-70, 1773-76, 2124-26. Testimony at trial established that over 780,000 New Yorkers would have been directly affected by service suspension, with many more impacted by the derivative effects. Id. at 1776, 2126. It is hard to imagine a conspiracy offense of a more serious nature than the offense of which the defendant stands convicted.

Moreover, the defendant was the driving force behind the terrorist offense. As proven through testimony at trial, it was the defendant who took the first germ of an idea for a bombing plot from codefendant James Elshafay and honed that idea into a workable terrorist scheme. Id. at 1974-79, 2965-66; Govt. Exh. 21C, at 12. As demonstrated by the audio recordings played at trial, see Govt. Exhs. 19-32 (audio recordings); Govt. Exhs. 19a-32a (transcripts), it was the defendant who spent countless hours brainstorming plans to bomb bridges, tunnels, subways and army bases throughout the New York City area until he arrived at an achievable plan. And as proven at trial, it was the defendant who presented his terrorist scheme to a man he believed was a member of a violent terrorist organization, who he thought could provide the firepower to blow up the 34th Street subway station and bring down the Manhattan Mall. Based on the extraordinarily serious nature of the offense and the defendant's role therein, a sentence within the guidelines range is warranted.

1. The Defendant's Critical Role in the Conspiracy Warrants a Sentence in the Guidelines Range

In his sentencing memorandum, the defendant attempts to minimize his role in the plot, blaming the offense on the "intervention" of the CI and claiming that the CI taught him that "Islam and jihad embraced violent concepts." Def. Letter, 12/21/06, at 2. However, the evidence presented at trial proved the opposite.

In direct contradiction to the defendant's contentions, the testimony of the UC demonstrated that, prior to meeting the CI, the defendant understood "that Islam and jihad embraced violent concepts." Indeed, the UC testified that, prior to meeting the CI, the defendant engaged in violent attacks on others, supported violent terrorist attacks against enemies of Islam, including the United States, and had engaged in conversations and research into terrorist techniques. Trial Trans. at 3270-81, 3304-38. The testimony of James Elshafay corroborated the UC's testimony on these points. Elshafay testified that, prior to meeting the CI, the defendant advised him on Islamic practices, recommended books espousing violent jihadist principles, expressed his affinity for terrorist leaders, and described jihad as involving a violent battle against the United States. Id. at 1957-63, 1967, 1969-71. Finally, the CI testified that it was the defendant who approached him regarding committing a violent terrorist attack -- a point which is corroborated in the conversations captured on the audio recordings.

In his submission, the defendant omits any discussion of the active and critical role that he played in the offense. When presented by his friend James Elshafay with a proposal of a violent, but rather far-fetched nature, the defendant did not hesitate to act. He immediately jettisoned the less viable portions of Elshafay's plan. On his own, he concocted a workable terrorist plot and presented it to someone he believed could provide explosives. By himself, he repeatedly visited the intended bombing site, scouting the most effective bomb-planting locations, looking for law enforcement surveillance, and devising escape strategies. As the evidence proved at trial, the offense was the brainchild and handiwork of the defendant.

2. The Likelihood of Success of the Conspiracy Is Irrelevant to Sentencing

Fortunately, due to the relationship between the defendant and the CI, the NYPD discovered the plot at an early stage. Indeed, when the defendant approached the CI with the plan that he and James Elshafay had concocted for committing a terrorist bombing, see Govt. Exh. 21C at 12, the NYPD directed the CI to assume the role of explosives provider -- in order to minimize the possibility of an actual attack. However, since the defendant had already spoken with the UC regarding the availability of explosives, see Trial Trans. at 3273, had spoken with others in the presence of the UC about recruiting a suicide bomber, id. at 3321-27, and had provided the CI with a manual on the construction and detonation of explosives, see Govt. Exh. 4, 4a, 5, there was no way to know at the time whether the defendant had alternative means to obtain explosives.

The defendant contends that the fact that the CI adopted the role of providing explosives should somehow mitigate the defendant's crime. The defendant provides no explanation for this contention, which makes no sense. Obviously, the defendant was unaware that the CI was a government agent. The CI's role is irrelevant to the defendant's culpability, and it clearly does not reduce the seriousness of the defendant's criminal conduct.

Nor does the CI's role mean that, in his absence, the defendant and James Elshafay would not have found another source of explosives. As a result, the fact that the NYPD thwarted the plot before it came to fruition should not affect the defendant's sentence in any way.

B. History and Characteristics of the Defendant

1. The Defendant's History and Characteristics Weigh in Favor of a Sentence in the Guidelines Range

As set forth in the PSR and in the evidence presented at trial, the defendant, aged 24, has already engaged in substantial criminal behavior. First, according to his own statements to witnesses and on audio recordings, the defendant shot and killed two individuals in Pakistan.[2] Since arriving in the United States, prior to the charged offense, the defendant engaged in additional violent activity, including assaults with dangerous weapons, simple assaults and weapon possession. Trial Trans. at 3272, 3314-19, 3330. Second, in his efforts to stay in the United States, the defendant filed a false political asylum claim and repeatedly discussed engaging in marriage fraud. See PSR, ¶ 67; PSR Addendum at 6; Govt. Exh. 24B at 28; Govt. Exh. 25A at 7; Govt. Exh. 27B at 16; Hearing Trans. at 275; Trial Trans. at 3118, 3318. Finally, during the course of this proceeding, the defendant has repeatedly delivered false testimony under oath and engaged in continuous efforts to obstruct justice.

In the recorded conversations, substantial portions of which were played at trial, the defendant spoke at length about the reasons for his involvement in the instant offense: his anger at the United States, his identification with Palestinian terrorist and Iraqi insurgents, and his support for violent jihad against the West. Long before he met the CI, he had provided many of those same rationales to the UC as explanation for his support for terrorist activity. There is no credible evidence in the record to suggest the defendant's views on these issues have changed.

Most significantly, in the recordings, the defendant expressed his intent to be more effective at attacking the United States than Al Qaeda by committing terrorist attack after terrorist attack -- rather than a single suicide attack. See Govt. Exh. 30A at 54-55.[3] Moreover, the defendant expressed his intent to remain committed to violent jihad until achieving a martyr's death: "When I will be old, 70 years old, I want to die. I will go on a bridge, I will take this one, that have a lot of cars on it." Govt. Exh. 30A at 89. Were the defendant to be released from custody, the government believes that he would follow through on his stated commitment to continue to support and engage in terrorist activity. The defendant's history and characteristics thus clearly support a sentence within the guidelines range.

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[2] It should be noted that, because of the paucity of detail provided and the overseas location of the crimes, the government has been unable to verify these admissions.

2. The Psychological Report Rests on False Information and Should Be Afforded No Weight

In discussing his history and characteristics, the defendant has submitted a psychological report which contends, inter alia, that he is "intellectually limited," with "critical thinking skills and [an] ability to analyze situations in depth [that] are impaired." Def. Letter, 12/21/06, Exhibit A, at 14 (hereinafter "Psych. Report"). Though the report is dated October 14, 2006, it was not disclosed to the government until December 21, 2006, over two months later, along with the defendant's sentencing submission. As a result, the government has had one week to review and respond to the report, which purports to involve scientific analysis. Generally, in such circumstances, the government would request an adjournment to retain and consult its own expert. However, since the report is so clearly based on faulty information and analysis, the government need not do so in this case.

First, the psychologist indicated that he based his opinion on interviews of the defendant, as well as review of FBI reports and the defendant's testimony at the suppression hearing and the trial. Psych. Report, at 2. The psychologist apparently opted not to read the hearing or trial transcripts in their entirety. Id. As a result, the psychologist appears to be unaware that numerous witnesses, including the UC, demonstrated the falsity of much of the defendant's testimony. But even more significantly, the psychologist apparently chose not to listen to the dozens of hours of audio recordings of the defendant, or even review the transcripts of those recordings. Id. The failure to review dozens of hours of conversations involving a patient -- recorded without the patient's knowledge so that he is speaking in an unselfconscious and natural manner -- is professionally inexplicable. In the government's view, this failure demonstrates the psychologist's lack of interest in evaluating the defendant in a neutral and comprehensive fashion and severely undermines the credibility of the resulting opinion and analysis.

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[3] The defendant stated the following to coconspirator James Elshafay and the CI: "Because see James, the main point is that if I will do something right, I don't want to die, I want to keep on doing it... Until they stop ... Until they stop it, until they become just full you know we have to keep on going for it, I don't want to be like, uh, what you call, al Qaeda guys, they one shot and they go down." Govt. Exh. 30A at 54-55.

Next, the psychologist apparently based his opinion in part on the defendant's demeanor and presentation in his interviews, Psych. Report at 3-4, a demeanor and presentation which diverged diametrically from that which he exhibited during court appearances and testimony, as well as during his post-arrest interview. According to the psychologist, he had to use "simple language" to communicate with the defendant. Id. at 3. By contrast, FBI Agent Robert L. Herrmann and Detective Joseph Nugent testified that they had no difficulty communicating with the defendant during post-arrest interviews. Similarly, there was no suggestion that James Elshafay, the UC or the CI communicated with the defendant using "simple language" during their extensive interactions with him. But the Court need not rely on the testimony of others, since Your Honor witnessed the defendant testify, without an interpreter, for several days at the hearing and the trial and saw him handle questions containing complicated words and concepts without difficulty. The psychologist's belief that the defendant could only understand "simple questions" using "simple language" demonstrates the shallow nature of his understanding of the defendant and further undercuts his analysis and opinion.

Similarly, the psychologist based his analysis on the defendant's claimed uncertainty regarding a number of facts that should be obvious to a person of average intelligence, such as his own age, his parents' age, and the length of the computer program he attended. Psych. Report at 4-5. According to the report, the defendant stated: "I forget a lot of stuff." Id. at 5. However, during his testimony at the hearing and trial, the defendant demonstrated no such lack of memory, testifying in detailed fashion regarding many events, including his experiences in grade school in Pakistan, his history with the UC, James Elshafay, and the CI, and his alleged treatment by ICE officials in 2004 and by JTTF officers and agents during the interview following his arrest, not to mention his birth date, his immigration history, and his employment history. At no point during several days of direct and cross examination did the defendant appear to lack memory in the manner described by the psychologist.

The psychologist further based his opinion on the defendant's contention that he was a non-violent person who had never hurt anyone. Psych. Report at 7. However, evidence presented at trial demonstrated the falsity of this contention. Not only did the defendant admit to a number of friends that he had engaged in significant violent conduct, but he was captured on an audio recording describing his attempt to use a firearm to murder more than one individual. Id. at 3094-96; Govt. Exh. 20B at 15-16. In addition, the UC testified that he personally witnessed the defendant engage in violent conduct including assaulting an individual with a wooden two-by-four and possession of an assault knife, Trial Trans. at 3314-17, and that the defendant admitted that he engaged in other violent conduct including murder, assault with a dangerous weapon, and assault. Id. at 3272, 3318-19, 3330. Indeed, the defendant even provided the UC with a demonstration of how to use a knife to stab someone most effectively. Id. at 3318. Finally, on the audio recordings, the defendant describes, inter alia, his desire to murder law enforcement officers and members of the military, kill Americans, and murder Jewish people, as well as his plans to bomb bridges and subways across New York City. The psychologist's belief that the defendant had no history of violence is entirely incorrect, further subverting his flawed analysis and opinion.

The psychologist also relied on false statements by the defendant at the interviews. For example, critical to the psychologist's report is the defendant's allegation that he only "cursed Americans" and "exploded" when "Mr. Daoudi showed me a small girl with a dog [allegedly raping her]..." Psych. Report at 8. However, at trial, the defendant unequivocally admitted that he found that photograph and showed it to the CI, not the other way around. Trial Trans. at 2752-53, 2929-31. Not only does reliance on this false statement further undercut the psychologist's analysis and opinion, but it demonstrates the defendant's continued effort to obstruct justice.

That the defendant manipulated the psychologist in this manner also fatally undermines the subjective "testing" on which the opinion relies. As an initial matter, the psychologist himself posited that, due to the defendant's "language and cultural differences, the results of this test must be cautiously interpreted." Psych. Report at 9. When one adds the above-identified false statements, feigned memory lapses and obstruction of justice to language and cultural differences, the result is testing that is utterly unreliable.

Perhaps most galling is the psychologist's contention that the defendant has subpar reasoning and analytical skills. Psych. Report at 14. If the psychologist had listened to the dozens of hours of audio recordings, or even consulted the transcripts of those conversations, he would, no doubt, have arrived at a very different conclusion about the defendant's reasoning and analytical skills. As Your Honor will remember, on those recordings, the defendant described his comprehensive, systematic and detailed plans to bomb bridges and subway stations. Far from exhibiting "overly simplistic" thinking, Psych. Report at 14, the defendant identified and described the pros and cons of various alternative bombing plans, even describing a complex scheme to bomb a subway train as it crossed the Manhattan bridge, assigning multiple conspirators different roles. Trial Trans. at 2983-88; Govt. Exh. 29a at 72. Far from "lacking leadership skills," Psych. Report at 14, the defendant took the initiative to research exhaustively the best manner in which to bomb the 34th Street subway station, repeatedly visiting the bombing target on his own and drawing a diagram. Trial Trans. at 2991-3009. Significantly, at several points on the audio recordings, the defendant became frustrated with the CI for failing to understand the defendant's complex schemes. See, e.g., id. at 2978-80.

Moreover, at the hearing and trial, the defendant again exhibited cognitive skills far superior to those identified by the psychologist. Indeed, the defendant tailored his answers to questions on cross-examination to correspond to the legal arguments of defense counsel on evidentiary questions. The Court went so far as to bar speaking objections during the hearing because of the defendant's ability to take cues from complicated legal arguments. Opinion & Order, 3/29/06. As the Court put it, "when [the defendant's] attorney made speaking objections to questions put to him on cross-examination, he was able to discern from his attorney's objection how he should answer the question before him." Id. at 10-11. In denying the defendant's motion to suppress, the Court found that the defendant was "voluble" on cross-examination and exhibited clear comprehension of his rights and interests. Id. at 10. Throughout his testimony at the hearing and trial, the defendant demonstrated capabilities that simply do not square with the perceptions and opinion of the psychologist.

In sum, the psychological report is based on demonstrably false and incomplete information. Moreover, in rendering an opinion, the psychologist failed even to consult or review all of the data, including the most valuable data available -- the audiotapes of the defendant unselfconsciously engaging in dozens of hours of natural conversation. The report's factual descriptions, analyses and opinions fly directly in the face of the capabilities demonstrated by the defendant at the hearing and trial. As a result, the psychological report should be accorded no weight and should not factor into the sentencing decision.

C. A Sentence within the Guidelines Range Would Reflect the Seriousness of the Offense, Promote Respect for the Law, and Provide Just Punishment

There are few more serious offenses in the federal criminal code than plotting to commit a terrorist bombing against a public transportation system. As set forth above, had the conspiracy achieved its objective, the likely consequences would have been extraordinarily severe: the deaths of innocent victims, extensive injuries to other innocent people, and a significant economic injury to our city and nation. Only a sentence within the guidelines would reflect the seriousness of the offense.

Any sentence below the guidelines range would severely undermine respect for the law by suggesting that a terrorist could evade punishment by hiding behind a meritless defense of entrapment. The evidence at trial demonstrated beyond a reasonable doubt the falsity of the defendant's claims. Yet, in his submission, the defendant still asserts that the government somehow created the crime. Just as the jury rejected the defendant's false claims at trial, the Court should reject them at sentencing. A sentence within the guidelines range would constitute the only just punishment for the offense.

D. The Deterrence Factor Weighs in Favor of a Sentence within the Guidelines Range

The investigation and prosecution of this case represent a sterling example of how a proactive law enforcement strategy should work to fight terror within the federal criminal justice system: the identification of terrorist conspirators, an effective investigation yielding a wealth of evidence, and a successful federal criminal prosecution. To allow any defendant -- but particularly a proven terrorist found guilty of conspiring to explode a bomb in a subway station -- to escape just punishment through perjury and a false claim of entrapment would send a terrible message to all parties involved in the criminal justice system. As a result, the deterrence factor also supports a sentence within the guidelines range.

E. Protecting the Public Requires a Sentence within the Guidelines Range

As set forth above, the evidence, including the defendant's own recorded assurances, see supra, indicates that the defendant is likely to engage in further terrorist activity upon his release. Given the international nature of terrorist organizations and the deep roots of many of those organizations in the defendant's native Pakistan, his deportation does not provide reason to believe that the American public will be safe from his efforts, as the defense maintains. Indeed, in recorded and unrecorded conversations, the defendant indicated that he hoped to attend terrorist training camps in Pakistan, that he had powerful friends in Pakistan, and that one could go to the north of Pakistan to use weapons. See Trial Trans. at 595-96; Govt. Exh. 27B at 16. As a result, a sentence within the guidelines ranges is also necessary in order to protect the public.

F. Providing the Defendant with Programs Is an Inconsequential Factor in the Instant Case

The government respectfully suggests that any determination regarding whether to provide the defendant with educational or vocational programs should be left to the discretion of the Bureau of Prisons, provided that the programs do not involve the teaching of skills that could be used to commit terrorist acts. However, since the defendant is likely to receive a substantial sentence that will include sufficient time to enroll in appropriate programs, this factor does not seem relevant to the length of that sentence.

G. Other Factors

None of the other factors identified in § 3553(a) are applicable to the case at hand. See 18 U.S.C. § 3553(a)(3) ("the kinds of sentences available"); § 3553(a)(5) ("any pertinent policy statement"); § 3553(a)(6) ("need to avoid unwarranted sentence disparities"); § 3553(a)(7) ("need to provide restitution").

III. Conclusion

By playing a critical role in a dangerous plot to explode a bomb in a subway station, the defendant committed an extraordinarily serious crime. The Sentencing Guidelines prescribe the only reasonable, just sentence for that crime. As a result, the Court should sentence the defendant to a term of imprisonment of between 360 months and life.

Respectfully submitted,

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